IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 88

BY STATE AFFAIRS COMMITTEE

AN ACT

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2	RELATING TO ABORTION; TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 6, TITLE 18,
3	IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 18-617 THROUGH 18-621, IDAHO
4	CODE, TO DEFINE TERMS, TO PROVIDE REQUIREMENTS FOR CHEMICAL ABORTION,
5	TO PROVIDE REQUIREMENTS FOR ADMINISTERING CERTAIN DRUGS IN ABORTIONS,
6	TO PROVIDE FOR CERTAIN CHEMICAL ABORTIONS, TO PROVIDE A CIVIL CAUSE OF
7	ACTION, TO PROVIDE CONDITIONS FOR ANONYMITY OF THE FEMALE, TO PROVIDE
R	FOR CONSTRUCTION AND TO PROVIDE SEVERABILITY

- Be It Enacted by the Legislature of the State of Idaho:
- SECTION 1. SHORT TITLE. This act shall be known and may be cited as the "Physician Physical Presence and Women Protection Act."
 - SECTION 2. That Chapter 6, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of <u>NEW SECTIONS</u>, to be known and designated as Sections 18-617 through 18-621, Idaho Code, and to read as follows:
 - 18-617. CHEMICAL ABORTIONS. (1) As used in this section:
 - (a) "Abortifacient" means mifepristone, misoprostol and/or other chemical or drug dispensed with the intent of causing an abortion as defined in section 18-604(1), Idaho Code;
 - (b) "Chemical abortion" means the exclusive use of an abortifacient or combination of abortifacients to effect an abortion;
 - (c) "Physician" has the same meaning as provided in section $18-604\,(11)$, Idaho Code.
 - (2) No physician shall give, sell, dispense, administer, prescribe or otherwise provide an abortifacient for the purpose of effecting a chemical abortion unless the physician:
 - (a) Has the ability to assess the duration of the pregnancy accurately in accordance with the applicable standard of care for medical practice in the state;
 - (b) Has determined that the unborn child to be aborted is within the uterus and not ectopic;
 - (c) Has the ability to provide surgical intervention in cases of incomplete abortion or severe bleeding, or has made and documented in the patient's medical record plans to provide such emergency care through other qualified physicians who have agreed in writing to provide such care;
 - (d) Is able to assure patient access to medical facilities equipped to provide blood transfusions and resuscitation, if necessary, as a result of or in connection with the abortion procedure on a twenty-four (24) hour basis;

- (e) Has examined in person the woman to whom the abortifacient is administered to determine the medical appropriateness of such administration and has determined that the abortifacient is sufficiently safe for use in the gestational age at which it will be administered; and
- (f) Has complied with the informed consent provisions of section 18-609, Idaho Code.
- (3) The physician inducing the abortion, or a person acting on behalf of the physician inducing the abortion, shall make all reasonable efforts to ensure that the patient returns for a follow-up visit so that the physician can confirm that the pregnancy has been terminated and assess the patient's medical condition.
- 18-618. CIVIL CAUSES OF ACTION. (1) Any female upon whom an abortion has been attempted or performed, or the father of the unborn child who was the subject of the abortion if the father was married to the woman who received the abortion at the time the abortion was attempted or performed, or a maternal grandparent of the unborn child in the event the mother is deceased, may maintain an action for actual damages against the person who in knowing or reckless violation of section 18-617, Idaho Code, attempted or performed the abortion. The court may, in its discretion award punitive damages and enjoin further violations of sections 18-617 through 18-621, Idaho Code.
- (2) A cause of action for injunctive relief against any person who has knowingly or recklessly violated sections 18-617 through 18-621, Idaho Code, may be maintained by a county prosecuting attorney with appropriate jurisdiction or by the attorney general. The injunction shall prevent the abortion provider from performing further abortions in violation of sections 18-617 through 18-621, Idaho Code, in this state.
- ANONYMITY OF FEMALE. In every court proceeding or action brought under this chapter, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each order shall be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest and why no reasonable less restrictive alternative exists. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under this section shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.
- 18-620. CONSTRUCTION. (1) Nothing in sections 18-617 through 18-621, Idaho Code, shall be construed as creating or recognizing a right to abortion.

- 1 (2) It is not the intention of sections 18-617 through 18-621, Idaho Code, to make lawful an abortion that is currently unlawful.
- 18-621. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.